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is one great consideration for such a move.

I think Congress should provide that in the event of a move, the community should have an adequate period of time in which to present its case and to be heard by an arbitration board, which, although it could not control the move, could make recommendations. In that way, the people of the community would have an opportunity to express their views, and perhaps to offer to buy out the owners so the team could remain where it was.

ORDER FOR ADJOURNMENT TO 10 A.M., TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate concludes its session tonight, it adjourn until 10 a.m., tomorrow.

The PRESIDING OFFICER. With-
out objection, it is so ordered.

AMENDMENT OF FOREIGN ASSIST- ANCE ACT OF 1961

The Senate resumed the consideration of the bill (H.R. 11380) to amend further the Foreign Assistance Act of 1961, as amended, and for other purposes.

Mr. PROXMIER. Mr. President, again I call attention to the excellent study of reapportionment made by the 20th Century Fund. In the study, the general argument in favor of representation on the basis of population—the "one-man, one-vote" argument—is made. Before I yielded the floor to several Senators, I was reading from a pamphlet. I continue to read from it:

Our constitutional system protects minorities by other means than giving them majority control of legislatures (as rural minorities now have in many States); and the claim that such legislative control is needed by the rural minority leads to some absurd results.

Of course, the protections for everyone equally are written into the Constitution, particularly into the Bill of Rights; and these apply without discrimination and without giving advantage to one group over another.

I read further from the pamphlet:

In Maryland rural counties containing less than 15 percent of the State's population elect a majority of the members of the State senate. This apportionment has been defended against legal attack on the ground that the rural counties must have such control for protection of their minority interests. But Negroes are a slightly larger minority in Maryland than the population of those rural counties; they make up almost 17 percent of the State's population. Logically it should follow that Negroes are entitled to elect a majority in one house of the Maryland legislature—if legislative control were the American method of protecting minority rights. But, of course, it is not and logically cannot be.

Obviously, if one followed a policy of trying to give minorities control of the legislatures, that would simply mean that there would be a rather transparent system of slowing down, blocking, and preventing the enactment of legislation. As I have pointed out many times, that is not in the interest of those who believe

in conservative principles, any more than it is in the interest of those who believe in progressive principles. If the States do not solve the problem, obviously the Federal Government is much more likely to do so.

I read further from the pamphlet:

Some other, less important arguments are also made in favor of "area representation"—i.e., a system that gives residents of sparsely populated areas extra weight at the polls. One is that campaigning is more difficult in a large, unpopulous district. But many politicians feel the contrary is true: It is easier to make news and get one's name known in country districts than in cities.

That was an objection which was made quite effectively, a few minutes ago, by the Senator from Kansas [Mr. PEARSON]. He pointed out, along with the Senator from Nebraska, that at least it is more difficult for constituents in rural areas to see their representatives, because they live farther apart; and if apportionment were strictly on a population basis, it might be necessary for the constituents or the representatives to travel great distances, at considerable inconvenience.

The point is that that argument was quite a persuasive one before the advent of the automobile; but I doubt that the argument applies today to many districts, even on the basis of apportionment on a population basis. At any rate, the argument is not nearly as important as the sacred principle that each man should have an equal vote.

I read further:

Another argument heard is that nonrural voters indulge in "bloc voting," which is bad, and are under the control of political machines. Actually, "bloc voting"—or, at least, predictable voting on certain issues—seems about as prevalent in rural areas as in cities. At all events, this argument seems at heart simply a variant of the belief in the rural voter's superior virtue.

Regionalism remains a factor within States, but regional interests can be recognized without distortion of voting power. It is desirable to consider regional characteristics when drawing up districts for a State legislature, but it is neither necessary nor proper to give any one regional population group greater voting power than some other group. It is good for dairy farmers in New York, or Wisconsin, for example, to have a voice in the legislature through one or more members from dairy areas; it does not follow that the votes of dairy farmers should carry greater weight than those of businessmen or union members.

The central fact is that any basis of representation other than population gives one citizen's vote greater value than another's. There is no justification in our democratic heritage, in logic or in the practical requirements of government for choosing such a course.

A second major point on which the conferees were agreed.

That is the conference of the Twentieth Century Fund, a distinguished group of scholars and outstanding university professors, who made that study on the depth of apportionment with regard to the whole principle.

I read further:

is that the principle of apportionment on the basis of population is equally applicable in both houses of a State legislature. The fact that all voters have an equal voice in the choice of one house would be no reason

to give some voters more weight than others in electing the second chamber.

The arguments for basing representation in one State legislative chamber on something other than people are the familiar ones: principally, that the rural population has special interests requiring protection by disproportionate voting power. Two further arguments are made:

First, it is pointed out that in Congress the House represents people and the Senate States. This is said to provide precedent and justification for a similar "Federal plan" in the State legislature, with one house representing people and the other counties or some similar geographic unit. But the analogy is false. The United States was created by 13 Sovereign States, and the Constitution embodies a theory of federalism which divides sovereign power between the Nation and the States. A key device for protecting their residual sovereignty was the equal State voice in the Senate. Thus the Senate was a condition of union among a group of States which the Federal Government created by that union has no power to destroy. Counties, by contrast, were never independent or sovereign. They did not create the States but were created by them. They are wholly creatures of the States and may at any time be merged, divided, abolished, created, and recreated by State governments.

They are strictly subject to State legislative action.

Federalism as a political theory has had and continues to have value as a device of compromise permitting the joining of lesser sovereignties into greater unions; an example in process is the European Economic Community. But to speak of federalism within a State is to reduce a great principle to an absurdity. "The U.S. Senate is both irrelevant and improper as a model for representation within a State," Prof. Paul David of the University of Virginia has written, because "a State is not a federal union of sovereign counties."

Mr. President, it cannot be said often enough. The objection that we come back to again and again, and the only solid argument that seems to persist is that we should look at the body in which we are meeting at this moment. Look at the Senate. Every State, regardless of size, has two Senators. We all recognize that the Senate has served a magnificent purpose throughout our history. It is a body that has many characteristics that are a reflection of the kind of limited power that we have. But to say that therefore the State governments should have created counties that have the sovereignty that the States have is an absolutely false analogy.

There is no comparison. There is no purpose in it. It does not make sense. The State does not have the power that the Federal Government has, the enormous crushing power of the sword; the command over the Army, Navy, and Air Force; the ability to levy national taxes; the capacity, through the taxing power, to tax; the military power to impose the restrictions, voluntarily and at will, that it wants to impose. To say that this is true within the State is an analogy that has no basis. Reading further:

Too often, the argument for a "Federal plan" of representation in State legislatures is born of simple ignorance of its actual background and implications. At worst, it may be advanced as a disingenuous cover for the disenfranchisement of urban and suburban voters.

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Second, it is contended that a bicameral legislature would have no purpose if both houses were representative of population. This argument assumes two propositions: that the only function of bicameralism is to provide contrasting bases of representation in the two houses (i.e., one people and the other "area"), and that making both houses representative of population would make the second house a mirror of the first and hence redundant. Neither proposition can be supported.

On the basis of 116 years of experience in the State of Wisconsin, I support and endorse that statement. The Senate of the State of Wisconsin is apportioned according to population. The State assembly is apportioned on the basis of population. They have served exactly the same bicameral purpose that houses of other State legislatures have. There have been the same kind of checks and balances, the same kind of mature and careful consideration in debates in the senate and the house. The assembly may be somewhat more responsive because it is elected for a shorter basis.

I read further:

The second house has a function quite apart from giving preferred political status to one population group—the function of providing checks and balances in the legislative process, of assuring more mature and deliberate consideration before a law is enacted. That was in fact the reasoning that underlay the adoption by many States during the 19th century of a population basis for both houses of their legislatures.

Later in that century, and in this, factors other than population were often introduced, by constitutional amendment or by failure to reapportion. Those who held political power abandoned population representation in order to retain their control in the face of population changes that they saw coming. Such philosophical justifications as the so-called "Federal plan" were designed to obscure the real motivation, just as today most of the elaborate arguments against representation on the basis of people are simply covers for a naked struggle to retain political power.

The justification for bicameralism remains the provision of checks and balances. Bicameralism may also serve to further the very objective of representing the people equitably in a legislature. In any districting, geographic features are bound to cause some inequalities of population among districts. When there are two houses, an area that is somewhat underrepresented in one may be given a compensating advantage in the other and minor inequities in apportionment thus be balanced off.

Nor is it true that two houses based on population will be mirror images of each other. They will, rather, present different reflections or combinations of the various elements that make up the population. For one thing, one house will have more members than the other, representing smaller districts.

That makes a great difference. In the smaller district, the representative is more likely to be closer to his constituents. He is likely to be closer and have perhaps a narrower view. On the other hand, one in a body that has a large district may not be quite as close. But he has a broader relationship, a more statewide view.

Reading further:

The length of terms will differ. In addition, members of one house may be elected from single-member districts, while multi-member constituencies are used in the other house. And, not least, politicians are hu-

man beings whose differing personalities produce institutions of differing qualities.

A number of States offer contemporary evidence that two houses based on population are by no means duplicates of one another. In Massachusetts both houses are apportioned on the basis of population; the two houses are among the most representative in the country. But the house has 240 members, the senate 40, and even under control of the same party the two bodies manage to disagree often enough. In Washington and Oregon both houses are based on population; though less disparate in size than the Massachusetts chambers (there are about half as many senators as representatives), the two houses are quite different in political outlook.

I have already cited Wisconsin. Reading further:

There is no justification for making one house of a State legislature reflect the will of all the voters and the other the will of particular regions or classes.

Mr. President, the argument has been made against representation based on population. I have just been discussing the case, trying to refute the arguments that have been listed in favor of having representation by population. I have been trying to support this argument. Now, to refute the argument against representation by area. I quote from a book by Andrew Hacker, entitled "Congressional Districting, The Issues of Equal Representation."

This is considered by scholars to be a truly definitive work. It is a publication of Brookings Institution, published in 1963. I believe everyone in this body has respect for the Brookings Institution and their objectivity, their capacity for enlisting experts to make the fine studies that they make. They are outstanding scholars and experts.

In the course of this analysis on congressional districting, the study by the Brookings Institute of last year stated:

The question of what is equitable representation is best summarized by considering the status of the second chamber of the State legislatures. The belief seems to be growing that at least one chamber will have to be apportioned on the sole basis of population, with each representative coming from districts of nearly equal size. By 1964, indeed in time for the primaries preceding the 1964 election, a majority of States in all likelihood will have completed cases requiring the redistricting of one house on a numerical basis. But 49 of the 50 States have a second chamber.¹ What rules govern its composition?

Most often heard is the argument that each State is a miniature "Federal" system. Under this analogy, one chamber of the legislature may represent population but the other should represent other units. These may be counties or towns or simply land area,² but usually it is the county. In a few

¹ Nebraska has a unicameral, or one-house legislature.

² The recently adopted Michigan constitution gives each of the 79 counties an "apportionment factor" determining how many State senators the county is to have. Eighty percent of the "factor" is based on population and 20 percent on the number of square miles in the county. Quite clearly it is not "land" that is being represented here; rather the sorts of people who live in sparsely settled areas are intended to be overrepresented. See William J. D. Boyd, "Patterns of Apportionment" (National Municipal League, 1962), pp. 17-18.

States each county has no more than one seat, for example, Los Angeles County has a single spokesman in the California Senate. But in most States, every county has at least one seat, with more populous counties getting extra seats. Almost all States have at least one county with population of less than 5,000, represented by a State senator with a voice and a vote equal to that of all his colleagues. The "Federal" view asserts that what usually amounts to county representation is legitimate for one chamber of the legislature. What is good for the U.S. Congress, it is reasoned, is good for the States. Judge O. Bowie Duckett of the Circuit Court of Anne Arundel County in Maryland inventoried the arguments for applying units of representation other than population to the State senate:

"Such an arrangement protects the minorities. It prevents hasty, although popular, legislation at the time. It is based upon history and reason and helps to protect the Republican form of government guaranteed by * * * the U.S. Constitution. It preserves the checks and balances of the State governments which has worked so well under the Federal. Moreover, there would be little advantage in having a bicameral legislature, if the composition and qualifications of the members were similar."

Mr. President, I intend to answer every single one of those arguments quite briefly. Before I do so, the distinguished Senator from South Carolina has asked me to yield to him. I ask unanimous consent that I may be permitted to do so without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I ask unanimous consent that I may be permitted to speak from the desk of the senior Senator from Arkansas [Mr. McCLELLAN].

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, out of the American Revolution sprang a new political order, dedicated to implementing the same high principles for which the Revolution was waged. The genius of the new political order lay in its combinations of carefully designed checks and balances, and divisions and separations of power for the protection of individual rights against the will of a majority, while retaining the ultimate power of decision on political questions in the people.

Unfortunately, our Nation is now experiencing a full blown counterrevolution which has already gone far toward destroying and undoing the accomplishments of the American Revolution.

Thomas Jefferson foresaw and predicted the main source of this counterrevolution, as is indicated by his statement in 1821 that:

The germ of dissolution of our Federal Government is in the * * * Federal judiciary; an irresponsible body * * * working like gravity * * * gaining a little today and a little tomorrow, and advancing its noiseless step like a thief, over the field of jurisdiction, until all shall be usurped from the States, and the government of all be consolidated into one. When all government * * * in little as in great things, shall be drawn to Washington as the center of all power, it will render powerless the checks provided of one government on another, and will become as venal and oppressive as the government from which we separated.

Thomas Jefferson through his wisdom rather than clairvoyance anticipated the

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role and course of the Supreme Court with astonishing accuracy.

The most far reaching of the recent decisions of the Supreme Court are the cases on reapportionment of State legislatures handed down on June 15 of this year. Although only 6 States were parties to these cases, these decisions could ultimately destroy the existing political structure of at least 44 of 50 States. In the reapportionment decisions, the Court so construed the 14th amendment to the Constitution as to prohibit either body of State legislatures from being apportioned on any other basis than population. As applied to South Carolina, these decisions would not only require drastic reapportionment of the State house of representatives, but would virtually preclude the existence of the senate, unless it was a substantial duplication of the reapportioned house.

In discussing the reapportionment decisions, there is no need, and indeed, no way, to become involved in legal technicalities. This is because the fundamental issue involved is not a legal question, but a political one. Political questions are not within the jurisdiction of the Court. Political questions are for decision of the people, exercised by the ballot and through legislative bodies.

Justice Harlan, dissenting in the Alabama case, said:

What is done today deepens my conviction that judicial entry into this realm is profoundly ill advised and constitutionally impermissible * * *. I believe that the vitality of our political system, on which in the last analysis all else depends, is weakened by reliance on the judiciary for political reform.

Justice Harlan put his finger on the real key to the apportionment decisions—the Supreme Court is undermining our political system. In so doing, the Court took unto itself power which rightfully and constitutionally belongs to the people.

To understand the full consequence of this counterrevolutionary decision, we must look even beyond the Court's usurpation of the power of the people to decide the political question, however, and examine the substance of the new rule of political order sought to be imposed by the Court.

The new political principle sought to be imposed by the Court is characterized as "one person, one vote." In application, this "one person, one vote" would mean that numbers, or population, could be the only basis for representation.

The people, to whom the political decisions of apportionment rightfully belong, could, of course, decide to follow the "one person, one vote" idea. The fact is, however, that the people have never made such a choice. The Court arbitrarily assumed that the people had not made such a choice because they were powerless, under existing political structure, to do so. The Supreme Court never even recognized the possibility that the people had not adopted the "one person, one vote" concept because they did not believe that it was practical or sound. Yet the latter is obviously the case. Every State constitution which departs materially from the concept of

"one person, one vote"—and nearly all of them do—was originally adopted in an election or referendum where the rule of "one person, one vote" was followed.

Population is, of course, the principal basis for apportionment of legislative representation in all States. But the various States have found it practical, workable, just, and beneficial to weight the apportionment of legislative representation with various other factors in their own States, just as was done in framing the structure of the National Government.

Consider just one illustration, the one about which the Supreme Court had its sensibilities so shocked; that is, the heavier weighting in one body of bicameral State legislatures in favor of rural residents.

Let me point out initially that such departures from apportionment based purely on population result in purely defensive powers to those so favored. The U.S. Congress provides a good example. Each State has equal representation in the Senate, regardless of its population. Thus Delaware has equal representation in the Senate with New York, although New York has at least 35 times more population. But Delaware, even with its equal representation in the Senate, nor even in combination with other small population States which might give them a majority in the Senate, does not have the affirmative power to pass legislation; for the House of Representatives must also concur, and its membership is based on population, or "one person, one vote." Thus the equal representation of Delaware in the Senate gives it at most an increased defensive power to what it would have were representation in Congress based solely on "one person, one vote."

Similarly, the weighting of representation in favor of rural residents gives them an increased defensive power, leaving them less vulnerable to the whims of a majority.

By the very nature of their occupations, agricultural areas are necessarily less densely populated than nonagricultural areas. We in the United States, with our consistent departure from the concept of "one person, one vote," have progressed to the point where approximately 8 percent of the population of the Nation produces the entire food and fiber for its consumption, with a large margin for export. This progress has been undoubtedly due in part to the fact that the agricultural sector through its defensive power stemming from its weighted representation has managed to protect its vital interests in the intertwined political and economic order.

Nor is the nature of agricultural enterprise such that those engaged therein can protect their vital interests outside the formal political structure by combined economic action through organization, as is done by industrial labor through the means of labor unions. So long as political issues have been left to the decision of the people, where they rightfully belong, these factors have been recognized, and the departures from the "one person, one vote" concept have not only been toler-

ated, but affirmatively approved by the majority of the people.

The arbitrary imposition of an unadulterated "one person, one vote" rule of legislative apportionment, could well, therefore, insofar as the agricultural sector is concerned, start the United States back down the road of inefficiency toward the status of such nations as the Soviet Union, where it takes 60 percent of the population to raise food and fibers for the nation, and even then there are severe shortages.

In no instance is the counterrevolutionary conduct of the Supreme Court more obvious than in the reapportionment decisions, for these cases strike at the heart of our political structure.

Mr. President, it is the duty and responsibility of the Congress to protect the political structure of the States against what would amount to mere anarchy in many of them should the Supreme Court be allowed to continue enforcement of its reapportionment decisions, unbridled by legitimate legislative enactments. We are all aware that numerous bills and proposed constitutional amendments dealing with this subject have been introduced and are pending before Congress. We are also aware that the Congress moves more deliberately, and requires more time to responsibly perform its legitimate legislative function, than does the Court in practicing usurped legislative functions. It is, therefore, not only appropriate but, indeed, also essential that the Congress enact a legislative moratorium on the reapportionment question, so that both the Congress and the States may give mature and responsible consideration to the issues involved, in order that anarchy be averted.

I strongly urge adoption of the Dirksen-Mansfield amendment.

Does the Senator from Wisconsin wish to ask me a question?

Mr. PROXMIRE. I understand the Senator contends that we should not follow the one-person-one-vote principle which so many scholars and students feel is the only basis on which we can justify representation at all. What principle would the Senator from South Carolina propose to take the place of the one-person-one-vote principle?

Mr. THURMOND. I would propose to let each State handle the matter as the State deems advisable and as the Constitution provides. Our own national system, in Washington, provides that each State shall have two Senators. Representation in the House, of course, is based upon population. That means that the smallest States in the Nation have only one Member in the House. I believe Vermont has only one House Member. Delaware has only one. Wyoming has only one. Nevada has only one. Alaska has only one. I believe there are five States with only one House Member. All the 50 States have two Senators, but those small States have only one House Member each, because their population is very small.

This system acknowledges the States. It was the purpose of those who wrote the Constitution to acknowledge the

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States. That is the reason why the Constitution provides that all powers not delegated to the National Government are reserved to the States. In the electoral college the States are acknowledged. South Carolina, for example, has eight Members in Congress, two Senators and six House Members. New York now has 43—it used to have 45—41 House Members and 2 Senators. One vote in the State of New York can throw all 43 of those one way. It is the same in smaller States. But the State is acknowledged.

There were 13 colonies 13 States before there was a Union. What some people seem to forget is that those States formed the Union. The Union did not form the States. Many people have the impression that the States are political subdivisions of the Union. That is not the fact. There are 51 governments in this country. There is a National Government in Washington, which was formed when the Constitution was written in Philadelphia in 1787.

When the States ratified that action in Philadelphia, the Union was formed. The number of States has increased until there are now 50 States. So there are 51 separate sovereign governments in this country. There is not a central government with 50 subdivisions. We must make that plain. We must recognize the States. Before the Union was formed, after the Revolutionary War was won, every one of those Thirteen Colonies was just as independent as Great Britain and France are today, and just as independent as Brazil or any other great nation on earth is today. They were independent nations. South Carolina had John Rutledge as President. We were an independent nation. But South Carolina, along with the other colonies, formed the Union. However, the colonies gave only certain powers to the Union. They reserved the other powers. They did not give to the Union the power of apportionment of State legislatures. Therefore, that power is reserved to the States. The composition of a State's government is a political question, not a legal question, and therefore the Supreme Court has no legal jurisdiction in the matter.

Mr. PROXMIRE. Let me say to the distinguished Senator from South Carolina, in the first place, that almost everything he says supports the position of the Supreme Court and contradicts the Dirksen amendment. There is no analogy whatsoever between the Federal Government and a State government. And his statement shows this in depth. To say that because there is a Federal Government in which one body, the Senate, is composed of two representatives from each of the 50 States, that therefore the State governments should do the same kind of thing, wholly overlooks the facts which the Senator from South Carolina has so painfully and effectively and carefully adduced for us. He has pointed out that they were sovereign States. They were States when they were formed. They could wage war, raise money, had their own tariffs, and possessed every other aspect of sovereignty. In that confederation they were more loosely allied than is the European economic association or NATO.

Those were sovereign nations that came together.

There is no sovereignty within the State. The State creates the county, the cities, and the townships. The States can add any number they wish. They can wipe them out, expand them, or contract them. So there is no basis for independent sovereignty. There is no way to recognize the entity of a subdivision of a State the way the Federal Government recognizes the entity of the several States.

Furthermore, we must recognize that the Federal Government has good, solid, sound reason in principle for the Federal system. That reason in principle is that the Federal Government has a truly massive power, which the Senator from South Carolina has fought hard and well to contain, and indeed it should be watched. The Federal Government has a monopoly on military power. It has power to make war, to make arrangements with foreign countries, to raise taxes over the whole country. So the power the Federal Government has over the States, unless there is some dilution or reservation of power within the States, would make for too strong a central government.

The principle of federalism is a wise and good principle. We should do all we can to help the States and persuade the States to become as efficient as possible. One of the reasons why they cannot solve the problems which face them is that they have malapportionment, one of the houses being based on area representation and the other on population representation. As a result, not only are economic groups vying with one another, but one party may be in control of the legislature and the other party in control of the governorship. The States cannot solve their problems. So they come to Washington.

From the standpoint of principle which the Senator has argued so eloquently, he has argued that the States have a great deal of sovereignty, arguing that the 10th amendment made clear that all powers not specifically delegated to the Federal Government is reserved to the States.

Why should the Federal Government step in and fight for the right of every citizen to have an equal vote for his State legislature?

The answer is that there is no sovereignty more vital, more important, than that which is within citizens of the United States—the dignity of the individual and the right of the individual citizen to have his rights protected.

I am sure the Senator from South Carolina would agree with me, or I hope he would, that the Federal Government has every right to intervene, if a State should interfere with freedom of speech or the exercise of religion or the exercise of assembly of an American citizen within that State.

On the same basis, it seems to me it is absolutely essential that the Supreme Court of the United States have the responsibility, and treasure that responsibility, and use that responsibility to protect the citizen in his right to have

an equal voice in his own State legislature. That is what we are fighting for.

If the Senator feels there should be one house based on something besides population or area, he is saying that there should not be equal voting; there should not be the principle of one man, one vote. He is saying that one man should have a superior vote or a superior power.

What basis, what principle, what practical observation does the Senator from South Carolina give for giving any person, whether he be a farmer, a non-farmer, a laborer, or a propertied person any more power than any other individual?

Mr. THURMOND. That is up to the people of each State. If the people of the State want it that way, they ought to be allowed to have it that way. If a State wishes to have a unicameral legislature or a bicameral legislature, it ought to be permitted to make its choice. If it wishes, as is true in my State, to have one senator from each county, and base the representatives on population, it ought to be allowed to do so.

In other words, the States have that power. They have never given it to the Union. So long as the State government is republican in form, the National Government has no constitutional power to interfere.

The powers of the Federal Government are embraced in article I, section 8. That is the only power the Union has, besides those granted in the 24 amendments adopted following the adoption of the Constitution. Otherwise, the States have reserved power to themselves. This power has never been delegated to the Union and, therefore, is reserved to the States.

I thoroughly agree with the Senator when he says that only two entities of government are referred to: The Government at the National level and the government at the State level. There are subdivisions of States, but there are not divisions of the Central Government. There are 50 State governments, and the people of the several States have all the powers in the world except those that they have given to the Union in the Constitution. The Union can do only those things that the States have specifically delegated it the authority to do.

On this question, the power and authority have never been delegated; they have been reserved to the States.

I am sorry I must leave the Chamber at the moment. I thank the distinguished Senator for his courtesy in yielding to me.

Mr. PROXMIRE. The Senator from South Carolina makes a strong, effective argument, but I say the obligation is as clear as it can be, in my judgment, and apparently in the judgment of the Supreme Court, under the 14th amendment of the Constitution, section 1, in which it is stated:

No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

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If all this means anything, if equality before the law means anything, it seems to me that the right to vote, which is so fundamental—the right to vote for members of a State legislature, is something that must be protected, can be protected, and should be protected under the 14th amendment.

The distinguished Senator from South Carolina made a strong and effective plea, but he did not answer that fundamental question, because no one can answer it. If there is not representation based upon one person, one vote, what principle do we choose? If we do not take it on a one person, one vote basis, we are saying that some people, by legal action of the Government, should have more power than others. That is anathema to democracy. In this country we do not believe in social or economic equality, but we do believe in political equality. That is a fundamental principle of any democracy.

To return to the definitive analysis by Andrew Hacker of last year: In this outstanding Brookings Institution analysis of arguments such as those adduced by the Senator from South Carolina recently, the answer to those two questions, according to Mr. Hacker, is:

First. "Such an arrangement protects the minorities." This is so in the sense that it gives the residents of small towns and rural areas the legislative power to veto bills that displease them. It also gives these minorities the opportunity to deny larger cities and suburban areas the resources needed to solve their own problems. It is one thing to protect yourself from oppression; it is quite another to harass other sections of the community because you think they are inferior or undeserving types of people. Moreover, only minorities—certain minorities in the less populous areas—are protected. Negroes are not sheltered, nor are white citizens who experience discrimination due to their national origin or family background. Minorities espousing unconventional views are hardly protected; and an important minority group the residents of suburbs—often unrecognized as a minority—are continually penalized because of underrepresentation. The question, very simply, is: Which minorities are allowed to safeguard their interests? The answer: Of all the minority groups that make up a State only a very few are given this advantage.

Second. "It prevents hasty, although popular, legislation." This has always been a persuasive argument. The theory—and it is only a theory—is that a lower chamber elected on the basis of population immediately translates mass sentiment into tyrannical or spendthrift legislation. The aristocratic second chamber then draws in the reins, wisely ponders the basic problem, and produces a rational solution by amending or rejecting the bill the lower house passed in haste. The trouble with this theory is that it has no basis in fact. For one thing, hasty legislation is difficult for either chamber because control of the agenda is usually in the hands of an entrenched group of party leaders or committee chairmen. State legislatures are not very susceptible to public opinions, temperate or interperate. But when such legislatures do reflect mass emotions, as has happened when lawmakers in the Deep South have rushed through new segregation barriers, then both upper and lower chambers usually exhibit this failing. At all events, it is difficult to enumerate instances of oppressive bills that sailed through lower State houses and were then stopped by the

upper house. And for such examples, matching cases can be shown where the lower house killed an excessive bill emanating from the upper chamber. One final rebuttal on this argument: Nebraska has had a unicameral legislature since the thirties, and its laws have been no more unreasonable than those of the other 49 States.

I might add that Wisconsin has had both houses of its legislature based on population. In Wisconsin we have had as many examples of bicameral interplay and checks and balances, as can be found in any State.

Perhaps Hacker states too strongly the argument that the upper house or the lower house is not likely to check the other. I think there is some checking. I have seen it in Wisconsin. Everyone who has served in a State legislature has observed it. But I think it occurs whether there is population representation strictly, as in our State and other States, or if one house is based on area and the other house is based on population.

Hacker continues:

Third. "It is based upon history and reason and helps to protect the republican form of government." The National Government has a bicameral Congress, with a Senate based on State representation, because this arrangement was necessary in order to establish the United States as a nation. Among the 13 States, the smaller ones would only agree to give up part of their sovereignty and join the Union if their interests were protected in a Senate where they would have an equal vote. There is nothing "reasonable" about the basis of representation of the Senate. What was reasonable was the action of the farmers in settling for a compromise that would induce all the States to throw in their lot with the new venture. Moreover, the States created the Union and, hence, could demand representation, as States, as the price of giving up some of their identity. Counties are not sovereign. They are created by States and can be abolished by them, as some have. Few counties have historic identities, and all are administrative devices for performing certain functions at the local level.

I do not subscribe to that view, but many people think this is the best way of regulating State government.

Certainly, the counties cannot claim to have created the States, as the States did the Union. Finally, the 14th amendment—requiring the States to grant equal protection to all their citizens—was adopted in 1868 and is evidence that the Constitution gives latest priority to personal equality. Representation of States in the Senate is a fact of history. But the general idea underlying it has neither been revived nor renewed.

Fourth: "It preserves the checks and balances of the State government which has worked so well under the Federal." Checks and balances refer to the mutual controls that the executive, legislative, and judicial branches have over each other. It is a somewhat new construction to assert that two houses of a legislature are also intended to check and balance one another. If this is so then the result will probably be stalemate and ultimate inaction. And the consequence will be that power will gravitate away from both houses of the legislature, either to administrative agencies in the State or to the bureaus of the Federal Government.

This is hardly the outcome that proponents of limited government want. On the contrary, their objectives could better be

achieved by greater coordination between the two houses of the State legislature. Only in that way will the real threats be held in check.

This is the final reason which is discussed—

"* * * there would be little advantage in having a bicameral legislature if the composition and qualifications of the members were similar." In this instance, those who find all virtue in the status quo are unable to think seriously of workable alternatives. Each citizen can be represented in more than one way, and each method may reflect his interests in a valid manner. Thus, part of his personality may be "local" and another part may be "national." Moreover, he may be one kind of person in 1958 and another kind in 1960. There is no reason why both chambers cannot be based on population, with districts of equal size for all senators. However, the lower house might have districts of 40,000—

In Wisconsin, the lower house has districts of 40,000—

and each upper house might have a district of 160,000—

In Wisconsin, each upper house district has about 115,000—

Covering four of the lower chamber districts.

In Wisconsin there are 33 senate districts.

In this way, a voter would have a "local" representative in the lower house and a spokesman with a "broader" view in the upper chamber. Furthermore, one house might be elected in 1961 and the other in 1963 so that the new thinking of the electorate would be reflected in one chamber at any given time. Or one could have 2-year terms and the other 6-year terms, thus sheltering one chamber from the necessity of worrying about reelection at frequent intervals. The point, of course, is that bicameralism can easily be based on an identical voting public. For that public can be represented in more than one way. Yet, no matter how deeply a voter's personality may be split or how much his moods vary over time, he is still a first-class citizen and is entitled to equal participation in electing the men who make his laws.

This is the finding of the Brookings Institution, on the basis of what is regarded by scholars in the field as one of the finest studies to be made of apportionment. The study was made last year.

I may state, briefly, the qualifications for making the study. I now read from the foreword to the study, which was written by the president of the Brookings Institution, Mr. Robert D. Calkins:

FOREWORD

The Supreme Court's decision in the case of *Baker v. Carr*, handed down in the spring of 1962, opened the way for reform of antiquated and inequitable patterns of representation in State legislatures. Over the ensuing 12 months, districting arrangements have been challenged in many States, and in several of them the legislatures have convened to draw up new districts which better reflect their actual population distribution.

The Court's decision has raised a number of issues, including the question whether the drive for more equal representation in the State legislatures will affect the U.S. Congress. The Brookings Institution therefore asked Prof. Andrew Hacker, of the Department of Government, Cornell University, to

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prepare a problem paper that would examine the present congressional districts from the viewpoint of the problems that might arise in connection with reapportionment in the States. The objective was a brief informative analysis drawing largely on available materials, with an early deadline precluding much new research.

Mr. Hacker's report approaches this subject from several vantage points. Among these are: the constitutional and historical background of congressional districting;

And so forth.

So this is a very profound and thoughtful study. Those who read, reviewed and commented on the study and helped to make it, included—

George A. Graham, director of governmental studies; and Milton C. Cummings, Jr., Laurin L. Henry, M. Kent Jennings, F. P. Kilpatrick, and Harold Orlans of the Brookings staff; and also Stephen K. Bailey, Frank Munger, and Douglas Price of Syracuse University. Much of the preliminary statistical analysis was done by Mr. Hacker's students in his seminar on political behavior at Cornell University.

So this work, which is so highly regarded, and is the latest profound and searching work in this field, is most important.

Mr. President earlier today the distinguished Senator from Pennsylvania [Mr. CLARK] requested that I consider withdrawing this amendment when I finished my speech. I have not finished my speech. I have made a start. But I temporarily postpone speaking in deference to colleagues anxious to join the fray. He felt that the amendment had great merit. I think so, too. I believe the amendment should be considered at considerable length by the Senate and by Members of the Senate, because it would enable us to accomplish what those who advocate the Dirksen amendment say they want accomplished, above all—which is to prevent chaos in situations in which the court actions have been so precipitate that the elections should be set aside, and so forth. The amendment would do that simply by providing that the stay shall not be deemed to be in the public interest, in the absence of highly unusual circumstances. As worded now, the stay shall be put into effect unless there are highly unusual circumstances.

Therefore, I am saying that the States shall proceed—as the United Press dispatch showed that the States are moving along—and shall continue to move along, unless there is an unusual situation which is such that the courts would, on the basis of this provision, be constrained to make an exception. At the same time, that arrangement would permit the Supreme Court to protect the rights of American citizens, and it should satisfy those who wish to have a reasonable solution of this problem reached.

So, Mr. President, with that in mind, and in the firm conviction that we have a long way to go before we fully and adequately discuss this issue, which is vital to many States, I withdraw my amendment No. 1229 to the Mansfield-Dirksen amendment, and I yield the floor.

The PRESIDING OFFICER (Mr. SALINGER in the chair). The amendment

of the Senator from Wisconsin is withdrawn.

Mr. DOUGLAS. Mr. President, I congratulate the Senator from Wisconsin for the very able speech he has made. It throws a great deal of light upon the issue.

Yesterday, my colleague [Mr. DIRKSEN] said he wished to make a second speech on this subject. I know that all of us anxiously await that speech. I believe we should give him "a full house"; therefore, I suggest the absence of a quorum, and I request that it be a live quorum, so that there may be a full audience for my colleague.

Mr. DIRKSEN. Mr. President, will my colleague withhold for a moment the suggestion of the absence of a quorum?

Mr. DOUGLAS. Yes, indeed.

Mr. DIRKSEN. Mr. President, I do not ask for "a full house." I am ready to vote on the Mansfield-Dirksen proposal. It has now been fully explored by the Senator from Wisconsin. I think he has occupied the floor for at least 4 hours. I would hope that he would allow his amendment to stand.

I would request a quorum call long enough to obtain a sufficient show of hands to enable us to obtain an order for a ye-a-and-may vote on the amendment; and then I would be delighted to have the vote taken.

The Senator from Pennsylvania suggested that the amendment of the Senator from Wisconsin be withdrawn. I am not sure that the Senator from Wisconsin would have withdrawn it, but for that suggestion.

However, in view of the fact that the Senator from Wisconsin has withdrawn his amendment—ostensibly to offer it at a later time—I am ready to have the vote taken now.

Therefore, for all practical purposes my senior colleague [Mr. DOUGLAS], in his usual spirit of generosity, does not have to ask for a live quorum, for I am ready to have him supply the speakers.

Last night there was difficulty in obtaining speakers.

So if my colleague wishes to have a quorum call, in order to obtain some other speaker—as, for example, my friend the Senator from Pennsylvania [Mr. CLARK], who this morning told me that this would be a full-fledged, full-blown, all-out effort that might go beyond the range of a convention which will take place in Atlantic City some time rather soon, I suggest that now these Senators supply the speakers; and I will take my own time, because I have never had difficulty in obtaining the time of the Senate when I wished to obtain it.

So perhaps my colleague would like to call on our friend, the Senator from Pennsylvania [Mr. CLARK] or our friend the Senator from Oregon [Mr. MORSE], if he is about, somewhere.

Therefore, why does not my colleague assemble his team now, get it coordinated, and proceed with the job?

Mr. DOUGLAS. Mr. President, I was impressed by the statement my colleague made yesterday. I now read from the CONGRESSIONAL RECORD, at page 18845, when he said:

But before I complete these preliminary remarks—and the next 2 or 3 hours I shall save for tomorrow, when Senators are fresher—and when I am fresher—

Then he discussed other features:

A little later he said:

Mr. President, this is the first chapter of my story. Like the old serials—"Continued in our next"—I trust that I shall get around to the rest of it tomorrow.

These statements caused me to feel that the junior Senator from Illinois wanted to continue today. He made a very witty and impressive speech, as he usually does. But he did not really touch on the meaning or effects of his amendment. His speech had his characteristic asides, and inimitable style, but it did not proceed to the argument. So I thought, especially in view of his specific statement that he wanted to speak today, that I had sufficiently answered the first part of his speech last night, and I wanted to hold myself in readiness to answer the second part today.

It is not compulsory in this body for any Senator to speak, of course. If my good friend does not wish to speak, we shall be very glad to continue. But I never knew him to refuse to joust in a cause in which he believed. I can hardly believe that he is now withdrawing from the contest. This is so unlike him.

Mr. DIRKSEN. Mr. President, will my colleague yield?

Mr. DOUGLAS. Yes, indeed.

Mr. DIRKSEN. The Senator forgets what was said to Julius Caesar, "The ides of March have come."

He replied, "Yes, but they have not gone."

It is still today. And it is going to be today until midnight. So I have plenty of time.

Mr. DOUGLAS. My good friend has confused his days. He said that yesterday.

Mr. DIRKSEN. Yes.

Mr. DOUGLAS. And when he spoke about tomorrow, that meant today.

Mr. DIRKSEN. It means today. And it is still today. Perhaps I had better look out of doors and see whether it is nightfall. I am becoming a sun dodger.

Mr. DOUGLAS. I cannot compel my colleague to speak. But I did want to offer him the opportunity of having a good attendance of Senators when he did speak. If my colleague does not wish to speak, we shall proceed with the argument. But I was trying to be courteous to my colleague, as he has always been courteous to me.

Mr. DIRKSEN. Yesterday no quorum call was needed, and yet the attendance was good.

Mr. DOUGLAS. There was a "live" quorum call.

Mr. DIRKSEN. I do not want to waste that much time.

Mr. DOUGLAS. Does the junior Senator from Illinois wish to discuss this subject today?

Mr. DIRKSEN. The Senator from Illinois always picks his own battlefield.

Mr. DOUGLAS. I see.

Mr. HART. Mr. President, will the Senator from Illinois yield?

Mr. DOUGLAS. I yield.

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Mr. HART. I thought the junior Senator from Illinois had the floor.

Mr. DIRKSEN. My senior colleague had the floor. But I am ready to vote.

Mr. HART. The Senator from Michigan had hoped that the junior Senator from Illinois would reply to the question which the Senator from Michigan asked yesterday on page 18845 of the CONGRESSIONAL RECORD. The answer of the Senator from Illinois was—

Within the next 3 or 4 hours, I expect to get around to that.

Those of us who oppose the amendment of the junior Senator do so out of a deep conviction that very few Senators yet understand what is proposed. We thought he would describe State by State the effects that would follow, in order that we might more intelligently respond.

Mr. DIRKSEN. Mr. President, I do not understand the concern about the junior Senator from Illinois. Why is everyone weeping about him, and why is there a sense of sympathy?

Senators are presumed to be able to read the English language. There is nothing very complicated about the language in this amendment. I am sure my distinguished friend, who joined in one of the meetings when there was a "hassle" on the proposal, is fully familiar with it. I do not care to speak. I am ready to vote now.

Mr. HART. There is nothing very complicated in the three words "ready, aim, fire." What is complicated is the question of who is to be shot down. We want to know that. The Senator from Illinois is the one who proposed the simple words. We want an explanation of those words.

Mr. DIRKSEN. The Senator can read the amendment.

Mr. HART. But we do not know who will be shot down.

Mr. CLARK. Mr. President, will the senior Senator from Illinois yield?

Mr. DOUGLAS. I shall be glad to yield. I may say that the Senator from Nevada [Mr. BIBLE] and the senior Senator from Missouri [Mr. SYMINGTON] are anxious to have me yield so that they may present the House amendments to S. 16. I shall be glad to do so. I do not want to hold them up.

Mr. CLARK. I would be only too happy to withhold a colloquy with the junior Senator from Illinois if I would be sure that the junior Senator from Illinois would not fly the coop in the meanwhile.

Mr. DIRKSEN. I am ready to break down and cry over this situation.

Mr. DOUGLAS. Mr. President, I am glad to yield to the Senator from Nevada, with the understanding that I do not lose my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

OZARK NATIONAL RIVERS IN MISSOURI

The PRESIDING OFFICER laid before the Senate the amendments of the House of Representatives to the bill (S. 16) to provide for the establishment of the Ozark National Rivers in the State of

Missouri, and for other purposes, which were, to strike out all after the enacting clause and insert:

That, for the purpose of conserving and interpreting unique scenic and other natural values and objects of historic interest, including preservation of portions of the Current River and the Jacks Fork River in Missouri as free-flowing streams, preservation of springs and caves, management of wildlife, and provisions for use and enjoyment of the outdoor recreation resources thereof by the people of the United States, the Secretary of the Interior (hereinafter referred to as the "Secretary") shall designate for establishment as the Ozark National Scenic Riverways the area (hereinafter referred to as "such area") generally depicted on map numbered NR OZA 7002 entitled "Proposed Ozark National Rivers", dated December 1963 which map is on file for public inspection in the office of the National Park Service, Department of the Interior: *Provided*, That the area so designated shall not include more than sixty-five thousand acres of land now in private ownership and that no lands shall be designated within two miles of the present boundaries of the municipalities of Eminence and Van Buren, Missouri. The Secretary, with the concurrence of the State, shall designate for inclusion in the Ozark National Scenic Riverways, the lands composing Big Springs, Alley Springs, and Round Spring State Parks, and the Secretary is hereby directed to negotiate with the State for the donation and the inclusion of such park lands in the Ozark National Scenic Riverways.

SEC. 2. The Secretary may, within the area designated or altered pursuant to section 4, acquire lands and interests therein, including scenic easements, by such means as he may deem to be in the public interest: *Provided*, That scenic easements may only be acquired with the consent of the owner of the lands or water thereof: *And provided further*, That any parcel of land containing not more than five hundred acres, which borders either the Current River or the Jacks Fork River, and which is being primarily used for agricultural purposes, shall be acquired by the Secretary in its entirety unless the owner of any such parcel consents to the acquisition of a part thereof. Property so acquired which lies outside the boundary generally depicted on the map referred to in section 1 of this Act may be exchanged by the Secretary for any land of approximately equal value within the boundaries. Lands and waters owned by the State of Missouri within such area may be acquired only with the consent of the State. Federally owned lands or waters lying within such area shall, upon establishment of the acre pursuant to section 4 hereof, be transferred to the administrative jurisdiction of the Secretary, without transfer of funds, for administration as part of the Ozark National Scenic Riverways.

SEC. 3. Any owner or owners, including beneficial owners (hereinafter in this section referred to as "owner"), of improved property on the date of its acquisition by the Secretary may, as a condition to such acquisition, retain the right of use and occupancy of the improved property for non-commercial residential purposes for a term ending at the death of such owner, or the death of his spouse, or at the death of the survivor of either of them. The owner shall elect the term to be reserved. The Secretary shall pay to the owner the fair market value of the property on the date of such acquisition less the fair market value on such date of the right retained by the owner.

SEC. 4. When the Secretary determines that lands and waters, or interests therein, have been acquired by the United States in sufficient quantity to provide an administrable unit, he shall declare establishment of the

Ozark National Scenic Riverways by publication of notice in the Federal Register. The Secretary may thereafter alter such boundaries from time to time, except that the total acreage in the Ozark National Scenic Riverways shall not exceed sixty-five thousand acres, exclusive of land donated by the State of Missouri or its political subdivisions and of federally owned land transferred pursuant to section 2 of this Act.

SEC. 5. (a) In furtherance of the purposes of this Act, the Secretary is authorized to cooperate with the State of Missouri, its political subdivisions, and other Federal agencies and organizations in formulating comprehensive plans for the Ozark National Scenic Riverways and for the related watershed of the Current and Jacks Fork Rivers in Missouri, and to enter into agreements for the implementation of such plans. Such plans may provide for land use and development programs, for preservation and enhancement of the natural beauty of the landscape, and for conservation of outdoor resources in the watersheds of the Current and Jacks Fork Rivers.

(b) The Secretary shall permit hunting and fishing on lands and waters under his jurisdiction within the Ozark National Scenic Riverways area in accordance with applicable Federal and State laws. The Secretary may designate zones where, and establish periods when, no hunting shall be permitted, for reasons of public safety, administration, or public use and enjoyment and shall issue regulations after consultation with the Conservation Commission of the State of Missouri.

SEC. 6. The Ozark National Scenic Riverways shall be administered in accordance with the provision of the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented, and in accordance with other laws of general application relating to the areas administered and supervised by the Secretary through the National Park Service; except that authority otherwise available to the Secretary for the conservation and management of natural resources may be utilized to the extent he finds such authority will further the purposes of this Act.

SEC. 7. (a) There is hereby established an Ozark National Scenic Riverways Commission. The Commission shall cease to exist ten years after the date of establishment of the area pursuant to section 4 of this Act.

(b) The Commission shall be composed of seven members each appointed for a term of two years by the Secretary as follows:

(1) Four members to be appointed from recommendations made by the members of the county court in each of the counties in which the Ozark National Scenic Riverways is situated (Carter, Dent, Shannon, and Texas), one member from the recommendations made by each such court;

(2) Two members to be appointed from recommendations of the Governor of the State of Missouri; and

(3) One member to be designated by the Secretary.

(c) The Secretary shall designate one member to be chairman. Any vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

(d) A member of the Commission shall serve without compensation. The Secretary shall reimburse members of the Commission for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Commission.

(e) The Secretary or his designee shall from time to time consult with the members of the Commission with respect to matters relating to the development of the Ozark National Scenic Riverways, and shall consult with the members with respect to carrying out the provisions of this Act.

(f) It shall be the duty of the Commission to render advice to the Secretary from time